

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Joint Application  
of Central Minnesota Ethanol  
Corporation and Crow Wing  
Cooperative Power and Light  
Company for Service Extension

PREHEARING ORDER

The above-entitled matter came on for a Prehearing Conference, pursuant to notice, on March 27, 1995, at 9:30 a.m. in St. Paul, Minnesota, before Bruce D. Campbell, Administrative Law Judge for the Office of Administrative Hearings.

Appearances: David E. Crawford and Peter H. Grills, O'Neill, Burke, O'Neill, Leonard & O'Brien, 800 Norwest Center, 55 East Fifth Street, St. Paul, MN 55101, and Peter Vogel, Rosenmeier, Anderson & Vogel, 210 Second Street Northeast, Little Falls, Minnesota 56345, appeared on behalf of Central Minnesota Ethanol Cooperative; Sally A. Johnson and Elizabeth H. Schmiesing, Faegre & Benson, 2200 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-3901, appeared on behalf of Crow Wing Power and Light Company; Dennis Ahlers, and Katherine L. McGill, Assistant Attorneys General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Public Service; Michael C. Krinka and Samuel L. Hanson, Briggs & Morgan, 2400 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402, appeared on behalf of Minnesota Power & Light Co.; and Stuart Mitchell, 350 Metro Square, 121 Seventh Place East, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Public Utilities Commission staff.

Discussion was held among the participants who took part in the Prehearing Conference, and having considered all the arguments and comments, as well as written submissions filed by the participants, the Administrative Law Judge makes the following Prehearing Order:

INTERVENORS

1. Based either upon their Petitions in Intervention or upon their statutory interest in the proceeding, the following are each made a party to this case as an Intervenor: Department of Public Service; and Minnesota Power & Light Co.

2. The final date for intervention is April 14, 1995.

Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

#### SCHEDULE FOR DISPOSITIVE MOTIONS

The following schedule for dispositive motions is adopted and, except when modified by Order of the Administrative Law Judge, shall govern this proceeding:

3. Final date for intervention - April 14, 1995;
4. Filing of Dispositive Motions and Supporting Memoranda - April 14, 1995;
5. Responses to Dispositive Motions - April 28, 1995;
6. Reply to Moving Party/Parties - May 5, 1995.

#### SCHEDULE FOR FILING TESTIMONY AND HEARING

The following schedule for filing testimony and conducting evidentiary hearings is adopted and, except when modified by Order of the Administrative Law Judge, shall govern this proceeding:

7. Joint Petitioner's Direct Testimony - May 5, 1995;
8. Intervenor's Direct Testimony - June 9, 1995;
9. All Parties; Rebuttal Testimony - June 23, 1995;
10. Surrebuttal Testimony - June 30, 1995;
11. Evidentiary Hearing - July 6, 1995, and thereafter as necessary.
12. No public hearings to receive the testimony of the public and ratepayers shall be held.

13. The parties shall submit Briefs and are encouraged to submit proposed Findings of Fact and Conclusions, all appropriately referenced to the official record, at such times after the close of the evidentiary hearings as shall be directed by the Administrative Law Judge.

#### PROCEDURE

14. The Rules of the Office of Administrative Hearings shall govern the conduct of the hearings herein.

15. The hearing shall be conducted in accordance with the schedule herein established unless otherwise determined by the Administrative Law Judge.

#### FILING OF DOCUMENTS

16. All direct testimony sponsored by the parties shall be filed in writing with the Administrative Law Judge and shall be received by the parties in accordance with the schedule herein. All prefiled testimony shall be in question-and-answer format.

17. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a. Prior to the issuance of the Report of the Administrative Law Judge, the original document and one copy shall be delivered or mailed to:

Bruce D. Campbell  
Administrative Law Judge  
Office of Administrative Hearings  
Suite 1700  
100 Washington Square  
Minneapolis, Minnesota 55401-2138

b. Fifteen (15) copies shall be filed with the Commission Secretary for distribution among Commissioner and Commission staff. The copies shall be delivered or mailed to:

Dr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
350 Metro Square  
121 Seventh Place East  
St. Paul, Minnesota 55101

c. Except as hereinafter provided, one (1) copy shall be served personally or by mail on the attorney of record for each party, or, if there is no attorney, upon the party.

d. One (1) copy of each such document shall be served personally or by mail on Elizabeth Donati as follows:

Elizabeth Donati  
Minnesota Department of Public Service  
200 Metro Square  
121 Seventh Place East  
St. Paul, MN 55101

and four (4) copies of each such document shall be served personally or by mail on Roxanne Colby as follows:

Roxanne Colby  
Docket Coordinator  
Minnesota Department of Public Service  
200 Metro Square  
121 Seventh Place East  
St. Paul, Minnesota 55101

e. A service list is attached hereto as Exhibit A and made a part hereof. Service of documents in the numbers required by this Order shall be made according to such service list unless changed by further order of the Administrative Law Judge.

f. Following the Report of the Administrative Law Judge, original documents shall be filed with the Secretary of the Commission. A copy may be filed with the Office of Administrative Hearings.

g. Pursuant to Minn. Rules, part 1400.1500, subd. 5 (1993), the effective date of filing shall be the date the document is mailed or delivered to the Administrative Law Judge or to the Secretary of the Commission.

h. Proof of service shall be filed with each filed document.

18. One copy of any document or information filed with or supplied to the Public Utilities Commission or the Commission staff relative to any issue in these proceedings which is not otherwise served on the parties or their attorneys pursuant to Paragraph 17 hereof shall be served on the attorney of record for each party, or, if there is no attorney, upon the party.

#### DISCOVERY

19. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed to all parties of record. No such request shall be provided to the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within ten (10) days from the date of the request. The information need not be supplied as a matter of course to all other parties. In the event the information cannot be supplied within such ten-day period, the responding party shall notify the requesting party, in writing, within five (5) days of the request to work out a

schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party.

20. Further discovery may be had herein in accordance with Minnesota Rules, parts 1400.6700 - 1400.6900 (1993).

#### PREFILED TESTIMONY

21. Prefiled direct, rebuttal and surrebuttal testimony shall not be bound into the record but shall be received as an exhibit to the record. Prefiled testimony not offered into the record shall be considered withdrawn and the witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties no later than five (5) days prior to commencement of the evidentiary hearing.

#### ORDER OF TESTIMONY

22. Testimony in the evidentiary hearing shall be offered in the following order: Central Minnesota Ethanol Cooperative and Crow Wing Cooperative Power and Light Company; Minnesota Power & Light Co; and Department of Public Service, and any other Intervenor in the order of their intervention. Cross-examination of the witnesses shall be conducted by the parties in the same order; provided, however, that parties shall not cross-examine their own witnesses. Except for cause shown, any new affirmative matter that is not offered in reply to another party's direct case shall not be offered in rebuttal or surrebuttal testimony and exhibits; provided, however, that the parties may raise in rebuttal or surrebuttal testimony affirmative matters in response to statements made by members of the public at the public hearings whether or not the issue was previously a part of that party's direct case.

23. No later than five (5) days prior to the commencement of the evidentiary hearings herein, each party shall submit to the Administrative Law Judge, the Commission and the other parties, a list of that party's witnesses and the order in which those witnesses will appear, indicating, if necessary, any day certain for testimony known to the party calling the witness. The final order of testimony will be as established by the Administrative Law Judge.

#### EXAMINATION OF WITNESSES

24. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

25. Except for cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such

objections on the Commission and all other parties no later than five (5) days prior to commencement of the evidentiary hearings. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying a foundation for the testimony.

#### MISCELLANEOUS

26. A final prehearing conference may be held on a date determined by the Administrative Law Judge. The purpose of this prehearing conference would be to mark exhibits to be offered at the hearing, including exhibits to be offered upon cross-examination, and portions of depositions to be introduced into the record. In the unusual case where the attorney for a party believes that an exhibit should not be disclosed to the opposing parties prior to oral examination, he or she may present a copy of the exhibit to the Administrative Law Judge with a brief memorandum of explanation in support and circulate copies of the exhibit to the other parties at the time of cross-examination.

27. Parties are encouraged to stipulate evidence not in dispute and to narrow the scope of contested issues to the matters actually in dispute. All stipulations will be subject of public testimony to be received, acceptance by the Administrative Law Judge, and review by the Commission, which shall include the opportunity for the Commission or its staff to examine any witness on the record irrespective of the existence of a stipulation between the parties with respect to such testimony.

28. This Order is effective immediately and may be modified by the Administrative Law Judge for cause.

Dated this 4th of April, 1995.

---

BRUCE D. CAMPBELL  
Administrative Law Judge

Service List  
2-2500-9523-2  
E-109/SA-95-41

-

Dr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
Suite 350, 121 Seventh Place East  
St. Paul, MN 55101-2147

Katherine L. McGill  
Dennis Ahlers  
Assistant Attorneys General  
Suite 1200 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2130

Roxanne Colby, Docket Coordinator  
Department of Public Service  
Suite 200, 121 Seventh Place East  
St. Paul, MN 55101-2145

Joan Peterson  
Assistant Attorney General  
Suite 1200 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2130

Peter Vogel  
Rosenmeier, Anderson & Vogel  
210 Second Street Northeast  
Little Falls, MN 56345

Paul R. Johnson  
Tillitt, McCarten, Johnson,  
Drummond & Haseman, Ltd.  
PO Box 188  
Alexandria, MN 56308-0188

Eric Swanson  
Assistant Attorney General  
Residential Utilities Division  
Suite 1200 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2130

Michael C. Krinka  
Samuel Hanson  
Briggs & Morgan  
2452 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402

Sally A. Johnson  
Elizabeth H. Schmiesing  
Faegre & Benson  
2200 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-3901

David J. McMillan  
Johannes Williams  
Minnesota Power & Light Company  
30 West Superior Street  
Duluth, MN 55802

Peter H. Grills  
David E. Crawford  
O'Neill, Burke, O'Neill, Leonard &  
O'Brien  
800 Norwest Center  
55 East Fifth Street  
St. Paul, MN 55101

Bruce D. Campbell  
Administrative Law Judge  
Office of Administrative Hearings  
100 Washington Square  
Suite 1700  
Minneapolis, MN 55401-2138

Elizabeth Donati  
MN Department of Public Service  
121 Seventh Place East, Suite 200  
St. Paul, MN 55101-2145